

Insurance Housekeeping

BUSINESS & LABOR

EXHIBIT NO. 4

DATE 2-20-13

BILL NO. HB 22

HB 22 • Section-by-Section (as amended, passed by the House)

Section 1: Amends 33-1-409

This amendment attempts to mirror NAIC standards concerning confidential information. Importantly, it delineates what working papers means. Allows CSI to share information with NAIC.

Section 2: Amends 33-1-1202

This section prevents persons from utilizing false insurance policies. Under the current statutes, insurance fraud only attaches when statements are made to insurers and when money is collected without the intent to offer coverage. Allows for agency to better pursue insurance fraud when counterfeit insurance policies are used.

Section 3: Amends 33-2-604

This change eliminates language concerning safe deposit boxes. Insurers exclusively use custodial arrangements with banks and trust companies and no longer maintain reserves in safe deposit boxes. Furthermore, the financial institution can be anywhere in Montana, not just Helena. Insurance companies do not use safe deposit boxes. This cleans up code requiring \$ be in safe deposit boxes.

Sections 4-6: Amends 33-2-606, 33-2-611, and 33-2-612

These changes are made to reflect the changes in 33-2-604, dealing with superfluous language. These changes delete code references to language that was deleted in above amendment in section 3.

Section 7: Amends 33-2-1303

This section cleans up archaic language and removes a grandfather requirement that allowed insurers three years from 1979 to meet certain standards. Gets rid of outdated language.

Section 8: Amends 33-3-401

This section incorporates 33-2-604 from above and only changes the referred to section number. These changes delete code references to language that was deleted in above amendment in section 3.

Section 9: Amends 33-4-302

This removes the requirement that farm mutual insurers must meet on a specific date every year. It allows farm mutual insurers to instead identify a month for its annual meeting to occur. This is done because farmers wait until after harvest to hold this meeting, and that date is never consistent. Picking the month is easier than picking the day.

Section 10: Amends 33-10-104

This amendment requires board members of the guaranty association to also be members of the guaranty association. The MONTANA INSURANCE GUARANTY ASSOCIATION (MIGA) is an entity created by Montana statute to protect the public in the event of a failure of a property and/or casualty insurance company. In the event an insurance company becomes insolvent, the Montana Insurance Guaranty Association will assume the processing of all covered claims in accordance with the applicable insurance policies and the applicable Montana statutes. Licensed insurance companies in MT are members of the Guaranty Association.

Section 11: Amends 33-17-102(8) Home State

Currently, there is no statutory language that addresses persons from states that do not grant adjustor and consultant licenses when it comes to licensing in Montana. This is the first of three fixes in this bill which would allow persons from those states which do not have adjustor or consultant licensure to designate a home state strictly for licensing purposes. This change makes it easier for insurance adjustors and consultants to register to do business in the state and requires same background checks that insurance agents go through. For example, a person lives in Minnesota but Minnesota doesn't license adjustors or consultants. This person however is licensed as an adjustor or consultant in Texas, which does license adjustors and consultants. Texas and Montana have reciprocity for licensing, as we do with other states, because both states agree each other's licensing requirements are sufficient. This change in the law allows the person who lives in Minnesota to apply to be licensed as an adjustor or consultant in Montana by designating Texas as his or her homestate, thus not having to also take continuing education classes required to be licensed in Montana because they have already taken similar classes to get licensed in Texas.

Section 12: Amends 33-17-214

This enumerates that only the primary place of business should be identified on a producer's license. Most producers communicate with the CSI through email. Therefore, a change in the business email should be reflected in the CSI's records. This makes it easier to communicate with agents and reflects industries wishes to communicate via email.

Section 13: Amends 33-17-301

Same as Section 11. This is the second fix concerning the home state designation. This allows for adjusters who reside in states that do not license adjusters to designate a home state for reciprocity purposes. This requires adjusters to submit to the same background examination as producers.

Section 14: Amends 33-17-503

Same as Section 11. This is the last fix concerning residency requirements and deals specifically with consultants. Allows for consultants who reside in states that don't license consultants to designate a home state for reciprocity purposes.

Section 15: Amends 33-17-505

This section treats consultants and producers equally, requiring both to submit to background examination process.

Section 16: Amends 33-17-110

This allows for producers to identify one address as their primary place of business for the physical license. This makes licensure for multiple offices simpler and clearer. As it is now, paper licenses don't have room to list multiple offices, so only primary place of business is required.

Section 17 Amends 33-20-509 The law currently applies **only** to annuities with **optional** maturity dates, which allows insurers to write fixed maturity date annuities with unreasonable maturity dates (i.e. with a maturity date of the annuitant's 115th birthday). The amendment treats both fixed and optional maturity dates the same – 70th birthday or 10th anniversary of contract.

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Section 18: Amends 33-20-903(1)(b)

This removes a double negative and does not impact any meaning of the statute.

Section 19: Amends 33-22-1811(1)(a)

This is done because there are no longer standard health benefit plans. Standard health plans statutes were repealed in past legislative sessions.

Section 20: Amends 33-22-2002(11)(a)

This changes the word "and" to "or." This is done because affiliates under common control and entities eligible to file a combined tax return are not always the same person. The agency currently interprets the "and" as an "or" so this would reflect that interpretation.

Section 21: Amends 33-28-104(1)(b)

Simply clarifying that the minimum capital and surplus for a Risk Retention Group is \$500,000. The minimum capital and surplus amount is not being changed. Before the change, a reader had to know that a risk retention group was a form of an industrial insured captive insurance company in order to determine what the minimum capital and surplus requirement was. Now, the minimum capital surplus requirement is upfront and easy to see.

Section 22: Amends 33-28-202(3)

This amendment allows for any captive insurance company to loan money to its affiliates, just like any traditional insurance company.

Section 23: Amends 33-28-301(11, 12)

No change, simply a rewrite to reduce confusion. Before the change, it was not clear that that the section was referring to reinsurance, not direct writings.

DESCRIPTION OF A CAPTIVE INSURANCE COMPANY (FOR SECTIONS 21-23)

Captive Insurance Company: An insurance company established to provide insurance to its parent company.

A few reasons why companies choose to form captive insurance companies:

1. Unlike self insurance, or simply putting money aside for losses, the parent company can take a tax deduction for premium payments made to a captive insurance company.
2. Obtain insurance not readily available in the public market.
3. Control when and how claims are paid.
4. control the investment of premium dollars and surplus.

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